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NOTE: CHANGES HAVE BEEN
MADE TO THIS DOCUMENT

¶ 7.c.

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10 Attorneys for Defendants
11 Action Immigration Bonds and Insurance
Services, Inc., Action International
12 Insurance, Inc. and Bankers Insurance
Company

13
14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16
17 GONZALES & GONZALES BONDS
AND INSURANCE AGENCY, INC., a
18 California Corporation,

19 Plaintiff,

20 v.

21 ACTION IMMIGRATION BONDS AND
INSURANCE SERVICES, INC., a
22 Florida Corporation, ACTION
INTERNATIONAL INSURANCE, INC.,
23 a Florida Corporation, and BANKERS
INSURANCE COMPANY, a Florida
24 Corporation,

25 Defendant.
26
27
28

CASE NO.: 2:13-cv-06997-PA-MRW

JUDGE: Hon. Percy Anderson

DISCOVERY MATTER

**STIPULATION FOR PROTECTIVE
ORDER**

1 **I. PURPOSE AND LIMITATIONS**

2 WHEREAS disclosure and discovery activity in this action is likely to involve
3 production of confidential, proprietary, or private information for which special
4 protection from public disclosure and from use for any purpose other than
5 prosecuting, defending, or attempting to settle this litigation (the "Litigation") may be
6 warranted. Accordingly, Defendants Action Immigration Bonds and Insurance
7 Services, Inc., Action International Insurance, Inc., and Bankers Insurance Company
8 (collectively, "Defendants"), and Plaintiff Gonzales & Gonzales Bonds and Insurance
9 Agency, Inc. ("Plaintiff") ("Plaintiff" and "Defendants" may be referred to as a
10 "Party" or as the "Parties"), through their respective attorneys of record, agree and
11 stipulate to and petition the Court to enter the following Stipulated Protective Order.
12 The Parties acknowledge that this Order does not confer blanket protections on all
13 disclosures or responses to discovery that is not otherwise discloseable, and that the
14 protection it affords from public disclosure and use extends only to the information or
15 items that are entitled to confidential treatment under applicable legal principles. The
16 Parties further acknowledge that the Federal Rules of Civil Procedure and Local
17 Central District Rule 79-5 shall set forth the procedures that must be followed when a
18 Party seeks permission from the Court to file material under seal.

19 Accordingly, IT IS HEREBY ORDERED that the terms and conditions of this
20 Order shall govern the handling of discovery materials in the Litigation:

21 This Protective Order shall govern and be applicable to the handling of
22 documents, depositions, deposition exhibits, interrogatory responses, responses to
23 request for admissions, responses to request for production of documents, and all
24 other discovery or materials contemplated under the Federal Rules of Civil Procedure
25 which are designated as containing confidential Material, as that term is defined
26 herein, and is furnished to any Party by any Party in connection with this Litigation.
27 This Protective Order has been agreed to by the Parties to facilitate discovery and the
28 production of relevant evidence in this litigation. Neither the entry of this Protective

Order, nor the designation of any information or document as confidential Material, as that term is defined herein, nor the failure to make such designation, shall constitute evidence with respect to any issue in this litigation.

II. DEFINITIONS

1. The term “Challenging Party” shall mean and include a Party that challenges the designation of information or items under this Order.

2. The term “Confidential Information” shall mean and include information contained or disclosed in any materials, including documents, portions of documents, answers to interrogatories, responses to requests for admissions, deposition testimony, and depositions, including data, summaries, and compilations derived therefrom that a Party believes in good faith to be a trade secret or other confidential research, development, or commercial information, as such terms are used in Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure and any applicable case law interpreting Rule 26(c)(1)(G) or the former Rule 26(c)(7).

3. The term “Confidential – Attorneys’/Experts’ Eyes Only” shall mean and include all information (regardless of how it is generated, stored or maintained) or tangible things that the Designating Party asserts in good faith (1) to be a trade secret or other confidential research, development, or commercial information, as such terms are used in Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure and any applicable case law interpreting Rule 26(c)(1)(G) or the former Rule 26(c)(7), and (2) may only be disclosed to those listed in Section IV.6.d., below.

4. The term “counsel” shall mean outside counsel of record, and other attorneys, paralegals, secretaries, and other support staff employed in the law firms identified below: AlvaradoSmith, APC, Roxborough, Pomerance, Nye & Adreani, LLP, and the Law Offices of Joseph R. Dawson, P.A. The term “counsel” shall not include attorneys who are employees of a Party to this action, or are affiliated with a law firm which has appeared on behalf of that Party.

1 5. The term “Designating Party” shall mean and include a Party that
2 designates information or items that it produces in disclosures or in response to
3 discovery, and has identified as either “Confidential” or “Confidential –
4 Attorneys’/Experts’ Eyes Only.”

5 6. The terms “Disclosure or Discovery Material” shall mean and include all
6 items or information, regardless of the medium or manner in which it is generated,
7 stored, or maintained (including, among other things, testimony, transcripts, and
8 tangible things), that are produced or generated in disclosures or response to discovery
9 in this matter.

10 7. The term “Expert” shall mean and include a person with specialized
11 knowledge or experience in a matter pertinent to the litigation who has been retained
12 by a Party or its counsel to serve as an expert witness or as a consultant in this action.

13 8. The term “Producing Party” shall mean and include a Party that produces
14 Disclosure or Discovery Material in this action.

15 9. The term “Professional Vendors” shall mean and include all persons or
16 entities that provide litigation support services (e.g., photocopying, videotaping,
17 translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving
18 data in any form or medium) and their employees and subcontractors.

19 10. The term “Protected Material” shall mean and include any and all
20 Disclosure or Discovery Material that is designated as “Confidential” or “Confidential
21 - Attorneys’/Experts’ Eyes Only.”

22 11. The term “Receiving Party” shall mean and include a Party that receives
23 Disclosure or Discovery Material from a Producing Party.

24 **III. SCOPE**

25 The protections conferred by this Stipulation and Order do not cover the
26 following information: (a) any information that is in the public domain at the time of
27 disclosure to a Receiving Party or becomes part of the public domain after its
28 disclosure to a Receiving Party as a result of publication not involving a violation of

1 this Order, including becoming part of the public record through trial or otherwise;
 2 and (b) any information known to the Receiving Party prior to the disclosure or
 3 obtained by the Receiving Party after the disclosure from a source who obtained the
 4 information lawfully and under no obligation of confidentiality to the Designating
 5 Party.

6 **IV. GENERAL RULES**

7 Designating Material for Protection. A Party that designates information or
 8 items for protection under this Order must take care to limit any such designation to
 9 specific material that qualifies under the appropriate standards. The Designating Party
 10 shall designate for protection only those parts of material, documents, items, or oral or
 11 written communications that qualify – so that other portions of the material,
 12 documents, items, or communications for which protection is not warranted are not
 13 included within the ambit of this Order. If it comes to the Designating Party's
 14 attention that information or items that are designated for protection do not qualify for
 15 protection, that Designating Party must promptly notify the Receiving Party that it is
 16 withdrawing the mistaken designation.

17 1. Manner and Timing of Designations. Except as otherwise provided in
 18 this Order, or as otherwise stipulated or ordered, Disclosure or Discovery Material that
 19 qualifies for protection under this Order must be clearly so designated before the
 20 material is disclosed or produced.

21 2. Designation in conformity with this Order requires:

22 a. for information in documentary form (e.g., paper or electronic
 23 documents, but excluding transcripts of depositions or other pretrial proceedings), that
 24 the Producing Party affix the legend "Confidential" or "Confidential –
 25 Attorneys'/Experts' Eyes Only" to each page that contains protected material. If only
 26 a portion or portions of the material on a page qualifies for protection, the Producing
 27 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
 28 markings in the margins).

1 b. for testimony given in deposition or in other pretrial proceedings,
2 that the Designating Party identify on the record, before the close of the deposition,
3 hearing, or other proceeding, all protected testimony. When it is impractical to
4 identify separately each portion of testimony that is entitled to protection, and when it
5 appears that substantial portions of the testimony may qualify for protection, the Party
6 that sponsors, offers, or gives the testimony may invoke on the record (before the
7 deposition or proceeding is concluded) a right to have up to 20 days from receipt of
8 the transcript to identify the specific portions of the testimony as to which protection
9 is sought. Only those portions of the testimony that are appropriately designated for
10 protection within the 20 days from receipt of the transcript shall be covered by the
11 provisions of this Stipulated Protective Order. Pages of transcribed deposition
12 testimony or exhibits to depositions that reveal Protected Material must be separately
13 bound by the court reporter and may not be disclosed to anyone except as permitted
14 under this Stipulated Protective Order. Additionally, the Designating Party shall have
15 the right to exclude from attendance at said deposition, during such time as the
16 Confidential Information is to be disclosed, any person other than the deponent,
17 counsel (including their staff and associates), and the court reporter.

18 c. for information produced in some form other than documentary
19 and for any other tangible items, that the Producing Party affix in a prominent place
20 on the exterior of the container or containers in which the information or item is stored
21 the legend "Confidential" or "Confidential - Attorneys'/Experts' Eyes Only." If only
22 a portion or portions of the information or item warrant protection, the Producing
23 Party, to the extent practicable, shall identify the protected portion or portions.

24 3. All Confidential Information designated as "Confidential" or
25 "Confidential - Attorneys'/Experts' Eyes Only" shall not be disclosed by the receiving
26 Party to anyone other than those persons designated herein and shall be handled in the
27 manner set forth in this Protective Order and, in any event, shall not be used for any
28

1 purpose other than in connection with this litigation, unless and until such designation
2 is removed either by agreement of the Parties, or by order of the Court.

3 4. With respect to material designated “Confidential” or “Confidential -
4 Attorneys’/Experts’ Eyes Only,” any person indicated on the document to be its
5 originator, author or a recipient of a copy thereof, may be shown the same.

6 5. All information which has been designated as “Confidential -
7 Attorneys’/Experts’ Eyes Only” by the Producing or Designating Party, and any and
8 all reproductions thereof, shall be retained in the custody of the counsel for the
9 Receiving Party, except that independent experts authorized to view such information
10 under the terms of this Protective Order may retain custody of copies such as are
11 necessary for their participation in this litigation.

12 6. ACCESS TO AND USE OF PROTECTED MATERIAL

13 a. Basic Principles. A Receiving Party may use Protected Material
14 that is disclosed or produced by another Party in connection with this case only for
15 prosecuting, defending, or attempting to settle this litigation. Such Protected Material
16 may be disclosed only to the categories of persons and under the conditions described
17 in this Order. When the litigation has been terminated, a Receiving Party must
18 comply with the provisions of section 20 below (FINAL DISPOSITION).

19 b. Protected Material must be stored and maintained by a Receiving
20 Party at a location and in a secure manner that ensures that access is limited to the
21 persons authorized under this Order.

22 c. Disclosure of “Confidential” Information or Items. Unless
23 otherwise ordered by the court or permitted in writing by the Designating Party, a
24 Receiving Party may disclose any information or item designated “Confidential” only
25 to:

26 i. the Receiving Party’s Counsel of Record in this action, as
27 well as employees of said Counsel of Record to whom it is reasonably necessary to
28 disclose the information for this litigation;

1 ii. the officers, directors, and employees of the Receiving Party
2 to whom disclosure is reasonably necessary for this litigation;

3
4 iii. Experts (as defined in this Order) of the Receiving Party to
5 whom disclosure is reasonably necessary for this litigation;

6
7 iv. the court and its personnel;

8
9 v. court reporters and their staff, professional jury or trial
10 consultants, mock jurors, and Professional Vendors;

11
12 vi. during their depositions, witnesses in the action to whom
13 disclosure is reasonably necessary; and

14
15 vii. the author or recipient of a document containing the
16 information or a custodian or other person who otherwise possessed or knew the
17 information.

18
19 d. Disclosure of “Confidential - Attorneys’/Experts’ Eyes Only”
20 Information or Items. Unless otherwise ordered by the court or permitted in writing
21 by the Designating Party, Protected Material designated “Confidential -
22 Attorneys’/Experts’ Eyes Only” may only be disclosed to:

23 i. the Receiving Party’s Counsel of Record in this action, as
24 well as employees of said Counsel of Record to whom it is reasonably necessary to
25 disclose the information for this litigation;

26
27 ii. Experts (as defined in this Order) of the Receiving Party to
28 whom disclosure is reasonably necessary for this litigation;

1 iii. the court and its personnel; and

2
3 iv. the author or recipient of a document containing the
4 information or a custodian or other person who otherwise possessed or knew the
5 information.

6
7 7. CHALLENGING CONFIDENTIALITY DESIGNATIONS

8 a. Timing of Challenges. Any Party may challenge a designation of
9 confidentiality at any time. A Party does not waive its right to challenge a
10 confidentiality designation by electing not to mount a challenge immediately after the
11 original designation is disclosed.

12 b. Meet and Confer. The Challenging Party shall initiate the dispute
13 resolution process by providing written notice of the designations it is challenging and
14 describe the basis for its challenge. The Parties shall attempt to resolve each
15 challenge in good faith and must begin the process by conferring directly (in voice to
16 voice dialogue; other forms of communication are not sufficient) within 7 days of the
17 date of service of notice. In conferring, the Challenging Party should explain the basis
18 for its belief that the confidentiality designations were not proper and must give the
19 Designating Party an opportunity to review the designated material, to reconsider the
20 circumstances, and, if no change in designation is offered, to briefly explain the basis
21 for the chosen designation.

22 c. Judicial Intervention. If the Parties cannot resolve a challenge
23 without court intervention, the Designating Party shall file and serve a motion **that**
24 **complies in full with the joint discovery motion practice under Local Rule 37** (and
25 in compliance with Civil Local Rule 79-5, if applicable) within 21 days of the initial
26 notice of challenge or any later date mutually agreed to in writing by the Challenging
27 Party and Designating Party. Each such motion must be accompanied by a declaration
28 affirming that the movant has complied with the meet and confer requirements

1 imposed in the preceding paragraph. Failure by the Designating Party to make such a
2 motion including the required declaration within the applicable time period, unless
3 excused by the Court, shall automatically waive the confidentiality designation for the
4 challenged designations. In addition, the Challenging Party may file a motion
5 challenging a confidentiality designation at any time if there is good cause for doing
6 so, including a challenge to the designation of a deposition transcript or any portions
7 thereof. Any motion brought pursuant to this provision must be accompanied by a
8 competent declaration affirming that the movant has complied with the meet and
9 confer requirements imposed by the preceding paragraph.

10 8. Unless the Designating Party has waived the confidentiality designation
11 by failing to file a motion to retain confidentiality as described above, all Parties shall
12 continue to afford the material in question the level of protection to which it is entitled
13 under the Designating Party's designation until the court rules on the challenge.

14 9. Nothing herein shall prejudice the right of any Party to object to the
15 production of any discovery material on the grounds that the material is protected as
16 privileged or as attorney work product.

17 10. Nothing in this Protective Order shall bar counsel from rendering advice
18 to their clients with respect to this litigation and, in the course thereof, relying upon
19 any information designated as "Confidential - Attorneys'/Experts' Eyes Only,"
20 provided that the specific contents of the information shall not be disclosed.

21 11. This Protective Order shall be without prejudice to the right of any Party
22 to oppose production of any information for lack of relevance or any other ground
23 other than the mere presence of Confidential Information. The existence of this
24 Protective Order shall not be used by any Party as a basis for discovery that is
25 otherwise improper under the Federal Rules of Civil Procedure.

26 12. Nothing herein shall be construed to prevent disclosure of Confidential
27 Information if such disclosure is required by law or by order of the Court.
28

1 13. The inadvertent failure to designate Confidential Information as
2 “Confidential” or “Confidential – Attorneys’/Experts’ Eyes Only” does not constitute
3 a waiver of such claim and may be remedied by prompt supplemental written notice
4 upon discovery of the inadvertent disclosure, with the effect that such Confidential
5 Information will be subject to the protections of this Protective Order. Upon timely
6 correction of a designation, the Receiving Party must make reasonable efforts to
7 assure that the material is treated in accordance with the provisions of this Order.

8 14. If a Party is served with a subpoena or a court order issued in other
9 litigation that compels disclosure of any information or items designated in this action
10 as “Confidential” or “Confidential - Attorneys’/Experts’ Eyes Only,” that Party must:

11 a. promptly notify in writing the Designating Party. Such notification
12 shall include a copy of the subpoena or court order;

13 b. promptly notify in writing the party who caused the subpoena or
14 order to issue in the other litigation that some or all of the material covered by the
15 subpoena or order is subject to this Protective Order. Such notification shall include a
16 copy of this Stipulated Protective Order; and

17 c. cooperate with respect to all reasonable procedures sought to be
18 pursued by the Designating Party whose Protected Material may be affected.

19 15. If the Designating Party timely seeks a protective order, the Party served
20 with the subpoena or court order shall not produce any information designated in this
21 action as “Confidential” or “Confidential - Attorneys’/Experts’ Eyes Only” before a
22 determination by the court from which the subpoena or order issued, unless the Party
23 has obtained the Designating Party’s permission. The Designating Party shall bear the
24 burden and expense of seeking protection in that court of its confidential material –
25 and nothing in these provisions should be construed as authorizing or encouraging a
26 Receiving Party in this action to disobey a lawful directive from another court.

27 16. Confidential Information shall not be disclosed to any outside experts or
28 consultants who are current employees of a direct competitor of any of the Parties, or

1 affiliated entities, named in the Litigation. With respect to outside experts or
 2 consultants who were employed by a direct competitor of any of the Parties named in
 3 the Litigation within one (1) year from the date of this Protective Order, Confidential
 4 Material may be shared with those experts or consultants only after counsel for the
 5 opposing Parties in this Litigation are given at least twenty (20) days prior written
 6 notice of the identity of the expert or consultant to whom such Confidential
 7 Information is to be disclosed (including his or her name, address, current job title and
 8 the names of any direct competitors by which he has been employed), are afforded an
 9 opportunity to object to the disclosure of the Confidential Information, and a
 10 resolution to any such objection has been reached. Notwithstanding the above
 11 paragraph 6, Confidential Information may be provided to experts or consultants only
 12 for the purpose of aiding, assisting, or allowing such expert or consultant to prepare a
 13 written opinion, to prepare to testify, or to assist counsel for a party in this Litigation.

14 17. Without written permission from the Producing Party or a court order, a
 15 Party may not file in the public record in this action any Confidential Information.
 16 The Parties shall comply with Local Rule 79-5 when seeking to file Confidential
 17 Information under seal. If a Receiving Party's request to file Protected Material under
 18 seal pursuant to Civil Local Rule 79-5 is denied by the court, then the Receiving Party
 19 may file the information in the public record unless otherwise instructed by the court.

20 18. Agreeing to be bound by this Protective Order, agreeing to, producing or
 21 receiving Confidential Information, or otherwise complying with the terms of this
 22 Order shall not:

23 a. Prejudice in any way the rights of the Parties to object to the
 24 production of documents they consider not subject to discovery, or operate as an
 25 admission by any Party that the restrictions and procedures set forth herein constitute
 26 adequate protection for any particular information deemed by any Party to be
 27 Confidential Information;
 28

1 b. Prejudice in any way the rights of any Party to object to the
2 authenticity or admissibility into evidence of any document, testimony or other
3 evidence subject to this Order;

4 c. Prejudice in any way the rights of a Party to seek a determination
5 by the Court whether any Confidential Information should be subject to the terms of
6 this Order;

7 d. Prejudice in any way the rights of a Party to petition the Court for a
8 protective order relating to any purportedly confidential information; or

9 e. Prevent a Disclosing Party from authorizing disclosure of its own
10 Confidential Information to any Party

11 19. Use of Protected Material at Trial. Any use of Protected Material at trial
12 shall be governed by a separate agreement or order.

13 20. FINAL DISPOSITION

14 a. Final disposition shall be deemed to be the later of (1) dismissal of
15 all claims and defenses in this action, with or without prejudice; and (2) final
16 judgment herein after the completion and exhaustion of all appeals, rehearings,
17 remands, trials, or reviews of this action, including the time limits for filing any
18 motions or applications for extension of time pursuant to applicable law.

19 b. Within 60 days after the final disposition each Receiving Party
20 must destroy all Protected Material. Notwithstanding this provision, Counsel are
21 entitled to retain an archival copy of all pleadings, motion papers, trial, deposition,
22 and hearing transcripts, legal memoranda, correspondence, deposition and trial
23 exhibits, expert reports, attorney work product, and consultant and expert work
24 product, even if such materials contain Protected Material.

25 21. Transmission by email is acceptable for all notification purposes herein.

26 22. The recipient of any Confidential Information that is provided under this
27 Protective Order shall maintain such information in a reasonably secure and safe
28 manner that ensures that access is limited to the persons authorized under this Order.

1 23. This Protective Order may be modified by agreement of the Parties,
2 subject to approval by the Court.

3 24. The Court may modify the terms and conditions of this Protective Order
4 for good cause, or in the interest of justice, or on its own order at any time in these
5 proceedings. The Parties prefer that the Court provide them with notice of the Court's
6 intent to modify the Protective Order and the content of those modifications, prior to
7 entry of such an order.

8 IT IS SO STIPULATED:

9
10 Dated: September 10, 2014

Dated: September 10, 2014

11
12 ROXBOROUGH, POMERANCE,
13 NYE & ADREANI, LLP

ALVARADO SMITH
A Professional Corporation

14 /s/ Gary A. Nye
15 GARY A. NYE
16 DAVID R. GINSBURG
17 Attorneys for Plaintiff
18 Gonzales & Gonzales Bonds and
Insurance Agency, Inc.

/s/ Rick D. Navarrette
RICK D. NAVARRETTE
T. MATTHEW HANSEN
Attorneys for Defendants
Action Immigration Bonds and
Insurance Services, Inc., Action
International Insurance, Inc. and
Bankers Insurance Company

[PROPOSED] ORDER

The parties' Stipulation for Protective Order is approved and in effect **as modified by the Court.**

IT IS SO ORDERED.

Dated: September 11, 2014

A handwritten signature in black ink, appearing to read 'Michael R. Wilner', with a long horizontal line extending to the right.

Hon. Michael R. Wilner
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that that on this 10th day of September, 2014, a true and correct copy of the foregoing **STIPULATION FOR PROTECTIVE ORDER** was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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s/ Elia Ramirez

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